

# Worksession

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|----------------------|----------------------------|
| <b>Agenda Item #</b> | 10                         |
| <b>Meeting Date</b>  | July 6, 2004               |
| <b>Prepared By</b>   | Kenneth Sigman             |
| <b>Approved By</b>   | Richard M. Finn, City Mgr. |

|                              |   |
|------------------------------|---|
| <b>Discussion Item</b>       | Recodification of Chapter 4, Businesses.  |
| <b>Background</b>            | The recodification of Chapter 4 is part of the City's ongoing recodification of the entire City Code. The proposal includes removal of outdated provisions and provisions now covered by county law, as well as revisions to the City's laws governing newsracks, peddlers, transient merchants, canvassers, and solicitors, and the use of the sidewalk by business located in the City.   |
| <b>Policy</b>                | <p>The revisions to Article 2, Newsracks, are intended to ensure that newsracks in the City are well maintained, do not contribute to litter, and do not impede pedestrian or vehicular traffic, while protecting the First Amendment rights of publishers.</p> <p>The revisions to Article 3, Peddlers and Transient Merchants, are intended to bring the Code in line with recent Supreme Court decisions regarding First Amendment and Commerce Clause limitations on the regulation of door-to-door salespersons, solicitors, and canvassers, while affording City residents the greatest possible protection from criminal activity. The changes include the following: eliminating the permit requirement for canvassers who do not solicit donations or sell merchandise or memberships, or otherwise seek money from residents; expediting the permit/license application process; increasing the application and permit and license fees to recover a larger portion of the administrative costs associated with such items; authorizing residents to post their property to prohibit solicitors and making violation of the posting a municipal infraction; and limiting solicitation activity to the hours between 8:00 a.m. and sunset.</p> <p>The revisions to Article 4, Use of Sidewalk for Business, include allowing street level restaurants and stores selling food and beverages to obtain a permit to provide sidewalk seating and service in front of their building and allowing non-street level retail stores to obtain a permit to display and sell merchandise on the sidewalk in front of their building with the consent of the street level tenant in their building.</p> |
| <b>Fiscal Impact</b>         |   |
| <b>Attachments</b>           | Proposed Chapter 4.   |
| <b>Recommendation</b>        | Review and discuss proposal and receive comments from interested persons.   |
| <b>Special Consideration</b> |   |

In light of the significant changes to the table of contents, the proposed table of contents is language is set forth below, and the existing table of contents is set forth beginning on page 20.

## **BUSINESSES**

### **CHAPTER 4. BUSINESSES.**

#### **ARTICLE 1. GENERAL PROVISIONS.**

- § 4-100. Authority of City Manager to adopt regulations.
- § 4-101. Designation of Enforcement Officials.

#### **ARTICLE 2. NEWSRACKS.**

- § 4-200. Purpose and Intent
- § 4-201. Definitions
- § 4-202. Prohibitions
- § 4-203. Standards for Newsracks
- § 4-204. Location of Newsracks
- § 4-205. Enforcement
- § 4-206. Public Nuisance
- § 4-207. Abandonment

#### **ARTICLE 3. PEDDLERS AND TRANSIENT MERCHANTS.**

##### **DIVISION 1. GENERAL.**

- § 4-310. Definitions.
- § 4-311. Exemptions.

##### **DIVISION 2. SOLICITOR'S PERMIT.**

- § 4-320. Required.
- § 4-321. Application.

##### **DIVISION 3. LICENSE.**

- § 4-330. Required.
- § 4-331. Application.

#### **DIVISION 4. REQUIREMENTS - PERMITS/LICENSES.**

- § 4-340. Background check.
- § 4-341. Fees; duration and expiration; renewal.
- § 4-342. Identification badge.

#### **DIVISION 5. PROVISIONS AND PROCEDURES - PERMITS/LICENSES.**

- § 4-350. Approval or disapproval of applications.
- § 4-351. Issuance, content and transferability.
- § 4-352. Denial.
- § 4-353. Revocation or suspension.
- § 4-354. Appeal of denial, revocation or suspension; procedure.

#### **DIVISION 6. RESTRICTIONS AND REQUIREMENTS - CONDUCT.**

- § 4-360. Exhibition of license; sign; records.
- § 4-361. Vehicle maintenance; identification displayed; refuse containers.
- § 4-362. Use of streets and sidewalks.
- § 4-363. Hours of operation.
- § 4-364. Exclusion by residents.
- § 4-365. Enforcement.
- § 4-366. Records of licenses and convictions.

#### **ARTICLE 4. USE OF SIDEWALK FOR BUSINESS.**

- § 4-400. Displays and sale of merchandise.
- § 4-401. Removal of merchandise.
- § 4-402. Permit required.
- § 4-403. Denial or revocation of permit.

### **CHAPTER 4. BUSINESSES**

Due to the extensive revision of Articles 1 and 2, the proposed language for those Articles is set forth below, and the existing language is set forth beginning on page 23.

#### **ARTICLE 1. GENERAL PROVISIONS.**

##### **§4-100. Authority of City Manager to adopt regulations.**

The City Manager may adopt regulations to implement this chapter in accordance with the provisions of Chapter 2, Article 3, Administrative Regulations.

#### **§ 4-101. Designation of Enforcement Officials.**

The City Manager shall designate city employees to enforce the provisions of this Chapter.

### **ARTICLE 2. NEWSRACKS.**

#### **§4-200. Purpose and Intent.**

The Council finds and declares that:

- (a) The uncontrolled placement of newsracks in public rights of way presents an inconvenience and danger to the safety and welfare of persons using such rights of way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.
- (b) Newsracks so located as to cause an inconvenience or danger to persons using public rights of way, and unsightly newsracks located therein, constitute public nuisances.
- (c) The general welfare requires that the aesthetic appearance of public rights of way in the city, including the appearance of newsracks, be improved.
- (d) Newsracks that cause paper to litter public rights of way and private property constitute a public nuisance.
- (e) The provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public safety and general welfare of persons in the city in their use of public rights of way.

#### **§4-201. Definitions**

Whenever the following words and phrases are used in this division, they shall have the meaning ascribed to them in this section:

- (a) "Distributor" means the person responsible for placing and maintaining a newsrack in a public right of way.
- (b) "Newsrack" means any self-service or coin-operated box, container, storage unit, or other dispenser installed, used or maintained for the display, sale or distribution of publications.
- (c) "Tree line" means the area between the sidewalk and the curb of a street, and where there is no sidewalk, that area between the edge of the paved street and the edge of a public right of way.

- (d) "Public right of way" means any place of any nature which is dedicated to use by the public for pedestrian and vehicular travel, and includes, but is not limited to, a street, sidewalk, curb, gutter, crossing, intersection, tree line, highway, alley, lane, mall, court, way, avenue, boulevard, road, viaduct, subway, tunnel, bridge, thoroughfare, park, square, and any other similar public way.
- (e) "Street" means that part of a public right of way that is designated and used primarily for vehicular travel.

#### **§4-202. Prohibition**

No person shall knowingly place, install, use or maintain any newsrack that rests in whole or in part upon, in, or on any portion of a public right of way or which projects onto, into, or over any part of a public right of way except in compliance with the provisions of this division.

#### **§4-203. Standards for Newsracks**

Any newsrack that rests in whole or in part upon, in, or on any portion of a public right of way or which projects onto, into, or over any part of a public right of way shall comply with the standards set forth in this section:

- (a) No newsrack shall exceed forty-eight (48) inches in height, thirty (30) inches in width, or twenty-four (24) inches in thickness.
- (b) No advertising signs or material, other than those dealing with the name of the publication contained within the newsrack, shall be displayed on the outside of any newsrack.
- (c) Each coin-operated newsrack shall be equipped with a coin-return mechanism to permit a person using the machine to secure an immediate refund in the event the person is unable to receive the publication. The coin-return mechanisms shall be maintained in good working order.
- (d) Each newsrack shall have stenciled or otherwise permanently affixed to it in a readily visible place so as to be seen by anyone using the newsrack a notice setting forth the name and address of the distributor and the telephone number of a working telephone service to call to report a malfunction, or to secure a refund in the event of a malfunction of the coin-return mechanism, or to give the notice provided for in this division.
- (e) Each newsrack shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, each newsrack shall be serviced and maintained so that:
  - (1) it is reasonably free of dirt and grease;
  - (2) it is reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;

- (3) it is free of rust and corrosion in the visible unpainted metal areas thereof;
  - (4) the clear plastic or glass parts thereof, if any, through which the publications therein are viewed are unbroken and reasonably free of cracks, dents, blemishes and discoloration;
  - (5) the paper or cardboard parts or inserts thereof are free of tears, peeling or fading; and
  - (6) the structural parts thereof are not broken or misshapen.
- (f) Each newsrack shall have affixed to it a mechanism that will prevent publications from blowing or falling out of the newsrack.

#### **§4-204. Location of Newsracks**

Any newsrack which rests in whole or in part upon, in, or on any portion of a public right of way or which projects onto, into, or over any part of a public right of way shall be located in accordance with the provisions of this section:

- (a) No newsrack shall be located in whole or in part in any street.
- (b) Newsracks shall be located only near the curb (or, if there be no curb, the edge of the street) or the wall of a building. Newsracks located near the curb shall be located no less than six (6) inches nor more than twenty-four(24) inches from the non-street edge of the curb and shall not open toward the street. Newsracks located adjacent to a building shall be located parallel to and not more than six (6) inches from the wall thereof. No newsrack shall be located directly in front of any display window of any building abutting a sidewalk or tree line except near the curb.
- (c) No newsrack shall be chained, bolted, or otherwise attached to any fixture or tree located in the public right of way, except to other newsracks.
- (d) Newsracks may be placed next to each other, provided that no group of newsracks shall extend for a distance of more than ten (10) feet along a curb, and a clear paved space of not less than six (6) feet shall separate each group of newsracks.
- (e) No newsrack shall be placed, installed, used or maintained:
  - (1) Within three (3) feet of any marked crosswalk.
  - (2) Within five (3) feet of any fire hydrant or other emergency facility.
  - (3) Within three (3) feet of any driveway.
  - (4) Within five (5) feet of any sign marking a designated bus stop.

- (5) Within three (3) feet of the outer end of any bus shelter.
  - (6) At any location whereby the clear space for the passageway of pedestrians is reduced to less than four (4) feet.
  - (7) Within three (3) feet of or on any public area improved with lawn, flowers, shrubs, trees or other landscaping.
  - (8) Within five (5) feet of a curb designating a handicapped parking space or within three (3) feet of a curb painted red, yellow or white.
- (f) Upon removal of any newsrack, the distributor shall promptly eliminate any potential hazards to the public, such as bolts, brackets or holes.

#### **§4-205. Enforcement**

Upon a determination by the City Manager that a newsrack has been installed, used, maintained or removed in violation of any of the provisions of this division, he/she shall cause a violation notice to be issued to the distributor to correct the offending condition. The violation notice shall be delivered to the distributor or shall be mailed to the distributor by certified mail, return receipt requested, at the address shown on the notice required by Section 4-203(d). The violation notice shall specifically describe the violation and the action necessary to correct it. If the distributor fails to correct properly the offending condition within thirty (30) days after receipt of the violation notice, the City Manager shall cause the offending newsrack to be summarily removed and processed as unclaimed property under applicable provisions of law. If the offending newsrack is not properly identified as to the distributor under Section 4-203(d), the newsrack shall be removed immediately and processed as unclaimed property under applicable provisions of law. The foregoing provisions are not exclusive, and are in addition to any other penalty or remedy provided by law.

#### **§4-206. Public Nuisance**

Any newsrack, or any publication offered for sale or distribution, in violation of this division shall constitute a public nuisance, and may be abated in accordance with applicable provisions of law.

#### **§4-207. Abandonment**

In the event a newsrack remains empty of its publication or contains an outdated edition of its publication for a period of thirty (30) continuous days, the same shall be deemed abandoned, and may be summarily removed in accordance with Section 4-205 for newsracks in violation of the provisions of this Article.

Article 3, Peddlers and Transient Merchants, and Article 4, Use of Sidewalks for Business (formerly Article 8, Sidewalk Sales) are set forth below, with additions indicated by underlining and deletions indicated by ~~strikeout~~.

### **ARTICLE 3. PEDDLERS AND TRANSIENT MERCHANTS**

## DIVISION 1. GENERAL.

### Sec. ~~4-134~~-310. Definitions.

As used in this Article:

(a) *Canvasser* ~~shall include~~ means any person, whether or not a resident of the city, who goes from house to house, from place to place or from street to street soliciting or taking or attempting to take orders for sale of goods, food, wares or merchandise, including magazines, books, periodicals or personal property of any nature whatever for future delivery, or for service to be performed in the future, whether or not the person has, carries or exposes for sale a sample of the subject of the order, or whether or not he/she collects advance payments of these orders. ~~The term shall~~ Canvasser also include means any person who, for himself or for another person, firm or corporation, hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, hotel room, lodging house, apartment, shop or other place within the city for the primary purpose of exhibiting samples and taking orders for future delivery.

(b) Permit/license holder means an individual holding a permit or a person holding license issued under this Article.

(c) *Junk or secondhand dealer* ~~shall include~~ means any person, firm or corporation, whether or not a resident or establishment within the city, who engages in the business of buying or selling or solicits for the purposes of buying, selling or obtaining any used material or thing customarily considered as a household item.

(d) Nonprofit organization means any organization that is qualified as tax exempt by the Internal Revenue Service.

(~~ee~~) *Peddler* ~~shall include~~ means any person, whether or not a resident of the city, who goes from house to house, from place to place or from street to street offering or exposing goods, food, wares or merchandise for sale or making sales and delivering articles to purchasers.

(f) Solicitor means any individual person desiring to solicit money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office or business buildings, by house to house canvass or in public places for a nonprofit organization.

(~~dg~~) *Transient merchant* ~~shall include~~ means any person, ~~firm~~ or corporation, whether or not a resident of the city, who engages in a temporary business of selling and delivering goods, food, wares ~~and/or~~ merchandise within the city; and who, in furtherance of this purpose, hires, leases, uses or occupies any building, structure, motor vehicle, trailer, tent, hotel room, lodging house, apartment, shop, street, alley or other place within the city for the exhibition and sale of goods, wares ~~and/or~~ merchandise, either privately or at public auction.

### Sec. ~~4-144~~-311. Exemptions.



(a) The provisions of this Article shall not apply to any of the following:

(1) Any person who is upon the premises at the request or invitation of the owners or occupants thereof.

(2) Wholesalers who sell ~~personal property~~ goods to dealers in such ~~articles~~ goods.

(3) Persons who take orders solely for the delivery of newspapers.

(4) Acts of merchants or their employees in delivering goods:

(A) In the regular course of business; or

(B) To regular customers on established routes.

~~(5) Any farmer or truck gardener who shall vend, sell or dispose of the products of the farm or garden occupied and cultivated by him.~~

~~(65) Any solicitor who is a city resident and who is ~~not a paid solicitor and is:~~~~

~~(A) Ssoliciting on behalf of and authorized by a nonprofit organization; or~~

~~(B) Not candidate for public office and is not involved in the promotion or sale of commercial goods or property conducted on behalf of a for-profit business enterprise.~~

~~(76) Any activity in a city park or public building when the activities at such places are under a permit issued by or to the Department of Recreation.~~

~~(7) Any activity authorized by the City under any provision of the Code or City regulation.~~

~~(8) Any person who is not soliciting money, property, or financial assistance of any kind or attempting to sell or distribute any item of literature or merchandise for which a fee is charged~~

(b) Nothing in this Article shall be held to prohibit any sale required by statute or by order of any court, nor to prevent any person from conducting a bona fide auction sale pursuant to law.

(c) Nothing in this Article shall be held to regulate the distribution of political campaign literature or solicitation of funds for political campaigns, as related to elections.

## DIVISION 2. SOLICITOR'S PERMIT.

### **Sec. ~~4-15. Required.~~**

~~Any organization, society, association, corporation or person desiring to solicit or have solicited, in its name, money or property or financial assistance of any kind or desiring to sell or distribute any item of literature or merchandise for which a fee is charged or solicited from persons other than members of such organization upon the streets, in office or business buildings, by house to house canvass or in public places for a religious, charitable, philanthropic, political, cultural or other noncommercial purpose is required to obtain a~~

### **4-320. Required.**

All solicitors must obtain a solicitor's permit from the City Clerk and shall be exempt from the provisions of Sections ~~4-174-330~~, ~~4-184-331~~, ~~4-27~~ and ~~4-284-361~~.

### **Sec. ~~4-164-321. Application.~~**

(a) Applicants for a solicitor's permit shall file with the City Clerk, on forms provided by the City Clerk, a signed application giving the following information:

(1) Name, local and permanent address, local and permanent telephone numbers, age, date of birth, race, weight, height, color of hair and eyes and other distinguishing physical characteristics of the applicant, if any.

(2) Name and purpose of the cause for which the permit is sought.

(3) Names and addresses of the ~~officers and directors of the~~ organization, if any.

(4) Period during which solicitation is to be carried on.

(5) ~~Whether or not any commission, fee, wages or emoluments are to be expended or received in connection with such solicitation and the amount thereof.~~

~~(6) Two~~A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty imposed therefor.

(b) Applicants shall submit two (2) prints of a recent photograph of the applicant, approximately two by two (2 x 2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

~~(b) Upon being satisfied that the applicant has met the requirements of Sections 4-15 and 4-16, the City Clerk shall issue a permit to the organization, society, association, corporation or person, specifically listing the person(s) who have completed the application process and have been authorized pursuant to Sections 4-22 and 4-23 to solicit in the city.~~

### DIVISION 3. LICENSE.

#### Sec. ~~4-174-330~~. Required.

No peddler, canvasser, transient merchant, or junk or secondhand dealer shall engage in such business within the city without first obtaining a license in compliance with the provisions of this Article.

#### Sec. ~~4-184-331~~. Application.

(a) Applicants for a license under this Article shall file with the City Clerk a sworn application, in writing, on a form to be furnished by the City Clerk, which shall give the following information:

(~~a~~1) Name, local and permanent address, local and permanent telephone numbers, age, date of birth, race, weight, height, color of hair and eyes and other distinguishing physical characteristics of the applicant, if any.

(~~b~~2) ~~Complete permanent home and local address of applicant and, in~~ In the case of transient merchants, the local address from which proposed sales will be made.

(~~c~~3) A brief description of the nature of the business and goods to be sold.

(~~d~~4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

———(~~e~~ of the employer.

(5) The length of time for which the right to do business is desired.

(~~f~~6) The source and supply of the goods or property proposed to be sold or orders taken for the sale thereof, where goods or products are located at the time the application is filed, and the proposed method of delivery.

(~~g~~7) If a vehicle is to be used in connection with ~~soliciting the proposed activity~~, a description of the same, together with the license tag number.

———(~~h~~) Two (2) prints of a recent photograph of the applicant, approximately two by two (2 x 2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

(~~i~~8) The name of at least two (2) permanent residents of Montgomery County ~~and/or Prince George's County~~, who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, other available evidence of the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

(~~j~~9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the

nature of the offense and the punishment or penalty imposed therefor.

(~~k~~10) The last cities or villages, not exceeding three (3), where the applicant carried on business immediately preceding the date of application and the addresses from which the business was conducted therein.

(b) Applicants shall submit the following documents with their application:

(1) Two (2) prints of a recent photograph of the applicant, approximately two by two (2 x 2) inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

(2) Copies of any county permits necessary for the applicant to conduct the proposed activity.

(3) If employed, credentials from the applicant's employer establishing the employment relationship.

## DIVISION 4. PERMIT/LICENSE REQUIREMENTS.

### Sec. ~~4-194~~340. Background check.

~~A~~Except as provided in Section 4-350(g), all permit and license applicants must obtain and submit a personal Criminal Justice Information System (CJIS) criminal background check report to the City Clerk as a supplement to the permit or license application. No application will be considered complete or filed until a CJIS criminal background check report is submitted by the applicant. The report must have been issued within no earlier than sixty days before the application is submitted to the Clerk.

### Sec. ~~4-204~~341. Fees; duration, and expiration; renewal.

(a) A nonrefundable processing fee of ~~five~~twenty-five dollars ~~(\$25)~~ will be charged to each applicant ~~at~~ the time an application for a permit or license is filed with the City Clerk.

~~———— (b) An administrative fee of five dollars (\$5.) will be charged to each applicant at the time a permit or license and identification badge is issued.~~

~~(c)~~ Every applicant for a license under this Article shall pay a license fee of ~~twenty-five~~three hundred dollars ~~(\$300) a year or one hundred seventy-five dollars (\$25.) a year or fifteen dollars (\$175)-~~ for a half year. The annual fee shall be assessed for one (1) year from the date of issuance, the half-year fee for six (6) months from the date of issuance.

~~(d)~~ Permits will be issued for a period effective for six (6) months from the date of issuance.

~~(e)~~ All permits and licenses issued under this Article shall expire at 12:00 midnight either six (6) months or one (1) year from the date of issuance, as applicable.

~~(f)~~ ~~Except as provided in Section 4-350(g), the same application procedures and requirements apply at the time an applicant seeks renewal of a permit (Sections 4-15 and 4-16) or license (Sections 4-17 and 4-18).~~

### Sec. ~~4-214~~342. Identification badge.

(a) Every ~~person either permitted or licensed to solicit in the city~~permit/license holder shall prominently display an identification badge issued by the city on his/her person at all times while engaged in ~~soliciting, an identification badge issued by the city.~~

~~———— (b) A solicitor's activity that requires a license or permit.~~

~~(b)~~ A permit/license holder's identification badge shall remain the property of the city and shall be surrendered to the city upon expiration, suspension or revocation.

(c) The identification badge shall show the following:

(1) Name and address of the ~~solicitor~~permit/license holder and the entity he/she is representing, if any;

(2) Dates of issuance and expiration of the permit or license;

(3) One (1) of the photographs submitted by the ~~solicitor~~ permit/license holder;  
and

(4) ~~WA~~ A statement as to whether or not any commission, fee, wages or emoluments are to be expended or received in connection with the ~~solicitation~~ permit/license holder's activity within the city.

## DIVISION 5. PERMIT/LICENSE PROVISIONS AND PROCEDURES.

### Sec. ~~4-224-350~~. Conditions for issuance ~~Approval or disapproval of applications.~~

(a) Upon receipt by the City Clerk of a complete application for a permit or license, ~~it~~ the Clerk immediately shall be referred ~~refer the application~~ to the Chief Police Officer or designee, who ~~shall immediately~~ review the application and background check report and institute an investigation of the background check report as he/she deems appropriate, ~~in his/her sole discretion, of the applicant's application~~ for the protection of the public safety.

(b) The review of the applicant's application and background check report, and any investigation of his/her application, shall give due weight to any conviction for any crimes against person or property:

~~—— (c) If as a result of the investigation, the applicant's background check and application are found to be satisfactory, the Chief Police Officer or designee shall endorse on the application his/her approval, or his/her disapproval and reasons therefor, and return the application to the City Clerk.~~

~~—— (d, conviction for trafficking in controlled dangerous substances, or judgements based upon fraud, deceit, or misrepresentation.~~

(c) The city may refuse to issue a permit or license upon a finding that the applicant has provided inaccurate information on his/her application or withheld or falsified any information required to be submitted in order to obtain a permit or license.

~~—— (e.~~

(d) If, as a result of the application, background check report, and investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief Police Officer shall endorse on such application his/her disapproval and his/her reasons for the same, and return said application to the City Clerk, who shall notify the applicant that the application is disapproved and that no license or permit will be issued.

(e) If, as a result of the application, background check report and investigation, the applicant's character and business responsibility are found to be satisfactory, the Chief Police Officer shall endorse on the application his or her approval and return said application to the City Clerk, who shall, upon payment of the prescribed license fee when applicable, deliver to the applicant a permit or license.

(f) The Chief Police Officer or designee shall endorse the application in the manner prescribed in Section ~~4-224-350~~(~~ce~~) within a reasonable amount of time as determined by the Chief Police Officer or designee after it has been filed by the applicant five days after the applicant has filed the application, including background check report required by Section 4-340, with the City Clerk and after the.

(g) An applicant who has submitted a criminal background check ~~has been submitted pursuant to Section 4-19.~~

**Sec. 4-23. Approval, issuance** ~~report to the City Clerk in connection with a successful application for a license or permit within two years of the submission of his/her application shall not be required to submit a criminal background check report with his/her application.~~

**Sec. 4-351. Issuance, content and transferability.**

~~—(a) The City Clerk shall determine, subject to review by the City Administrator as provided in Section 4-26, whether or not the application shall be approved. If the application is approved, the City Clerk shall, upon payment of the prescribed fees, issue a permit or license to the applicant, as applicable.~~

(~~b~~a) The permit or license shall contain:

- (1) The signature of the City Clerk.
- (2) The name and address of the individual applicant or organization, accompanied by a listing of each applicant covered by the permit or license.
- (3) The class of permit or license issued.
- (4) The purpose and cause of the permit or kind of goods to be sold.
- (5) The amount of fees paid.
- (6) The date of issuance.
- (7) The expiration date.
- (8) The license plate number and other identifying description of any vehicle used in the licensed business, if applicable.

(~~c~~b) ~~Each organization or individual provided for in Section 4-15~~ solicitor must secure a permit, and each peddler, canvasser, transient merchant, or junk or secondhand dealer and their bona fide employee(s) must secure a personal license. ~~A permit issued to an organization will specifically list the persons who have completed the application process and have been authorized to solicit in the city.~~

(~~d~~c) No license shall be used at any time by any person other than the one to whom it is addressed issued.

(~~e~~d) The Clerk shall keep a permanent record of all permits and licenses issued.

**Sec. ~~4-244~~-352. Denial.**

If an application for a permit or license under this Article is disapproved, the City Clerk shall promptly notify the applicant, in writing, to that effect. The denial of a license or permit is subject to review by the City Manager as provided in Section 4-354.

**Sec. ~~4-254~~-353. Revocation or suspension.**

(a) Permits and licenses issued under this Article may be revoked by the City ~~Administrator~~Clerk for any of the following grounds:

(1) Fraud, misrepresentation or incorrect statement contained in the application.

(2) Fraud, misrepresentation or incorrect statement made in the course of carrying on his/her business as solicitor, peddler, canvasser, transient merchant or junk or secondhand dealer.

(3) ~~Any violation~~Violation of this Article ~~any City, county, state, or federal law.~~

(4) Conviction of any crime or misdemeanor.

(5) Conducting the business of solicitor, peddler, canvasser, transient merchant, junk or secondhand dealer, as the case may be, in an unlawful manner or in a ~~like~~ manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

(b) Permits and licenses issued under this Article may be suspended during the period a permit or license holder is under investigation ~~following his/her arrest for any crime~~action identified in paragraph (a) of this section.

(c) If a permit or license under this Article is revoked or suspended, the City Clerk shall promptly notify the ~~applicant, in writing, to that effect.~~  
permit/license holder in writing.

(d) If a permit or license is suspended for any reason that proves to be unfounded, the permit or license may be extended for a period of time equal to the period of suspension.

~~(e)~~ No person whose permit or license has been revoked or suspended under the provisions of this section shall make further application for a permit or license within six (6) months thereafter.

**Sec. ~~4-264~~-354. Appeal of denial, revocation or suspension; procedure.**

The procedure for the handling of appeals, under this Article, shall be governed as follows:

(a) Any person aggrieved by the action of the City Clerk ~~in the denial of~~denying,



revoking, or suspending a permit or of a license shall have the right to appeal to the City ~~Administrator~~ Manager.

(b) The appeal shall be made by filing with the City Clerk a written statement setting forth fully the grounds for the appeal within fourteen (14) days after receipt of notice of the action.

(c) The City ~~Administrator~~ Manager shall consider the appeal and provide a final written ~~response~~ decision to the applicant within fourteen (14) days after receipt of the appeal.

## **DIVISION 6. REGULATIONS RESTRICTIONS AND REQUIREMENTS - CONDUCT.**

### **Sec. 4-274-360. Exhibition of license; sign; records.**

(a) Every ~~licensee~~ licenseholder is required to exhibit his/her license certificate at the request of any citizen.

(b) Each junk or secondhand dealer shall, in some manner, display a sign showing the firm name, type of business and location address in letters at least two (2) inches in height and plainly legible on each side of any vehicle used.

(c) Each junk or secondhand dealer transacting business within the city shall maintain all records of such and shall exhibit them upon demand to any police officer or to the City ~~Administrator~~ Manager.

### **Sec. 4-284-361. Vehicle maintenance; identification displayed; refuse containers.**

(a) Any vehicle and everything pertaining thereto used by a licensed vendor shall at all times be maintained in a clean and orderly condition. No portion of the contents shall be thrown, spilled or deposited upon the street or other public place.

(b) Every vehicle shall have the name of the vendor, the location where the vehicle is stored, when not in use, and the Takoma Park license number painted or applied on the vehicle or displayed on a detachable, professional quality sign of either magnetic or other durable and weather proof material, such as metal or plastic, in letters at least two (2) inches in height and plainly legible, affixed on each side of the vehicle on the front doors.

(c) Vendors selling from stands or vehicles shall attach to their stand or vehicle the appropriate refuse receptacle(s) as required by the nature of the operation ~~and prescribed by the City Administrator or designee~~. The contents of each receptacle shall be removed daily by the person in charge of the stand or vehicle to which it is attached.

### **Sec. 4-294-362. Use of streets and sidewalks.**

No permit holder or licensee shall have an exclusive right to any location in the public streets or sidewalks, be permitted to stop and conduct operation within 50 feet of their vehicle or stand for more than 15 minutes within a single block during a 24-hour period or be permitted to operate in a congested area where the operation might impede or inconvenience the public

use of the streets or sidewalks. For the purpose of this Article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether or not an area is so congested as to impede or inconvenience the public.

#### **Sec. 4-3063. Hours of operation.**

Permit holders and licensees shall only canvass, solicit or conduct business ~~during daylight hours, no earlier than~~between 9:00 a.m., ~~and sunset~~ each day, except that licensed vendors selling from stands or vehicles at stationary locations on private property may conduct business until 9:00 p.m. In this Section, "sunset" means the time established by the U.S. Naval Observatory for Washington, D.C., and vicinity. These hours of operation shall not apply to solicitations where ~~en~~ the person solicited has agreed by previously arranged appointment for a time other than the prescribed hours.

#### **Sec. 4-364. Exclusion by residents.**

Any resident of the City who wishes to exclude solicitors peddlers, canvassers, transient merchants, or junk or secondhand dealers from premises occupied by him/her may place upon or near the usual entrance to such premises a printed sign bearing the following notice: "peddlers and solicitors prohibited". Such sign shall be at least 4 inches long and 6 inches wide and the printing thereon shall be clear and legible. No solicitor, peddler, canvasser, transient merchant, or junk or secondhand dealer shall enter in or upon any premises, or attempt to enter in or upon any premises, where such sign is maintained. No person other than the person occupying such premises shall remove, injure or deface such sign.

#### **Sec. 4-3165. Enforcement.**

(a) Any violation of this Article is a Class C offense.

(b) The Police Department shall require any person seen ~~peddling, soliciting or canvassing~~conducting any activity for which a permit or license is required under this Article who is not known by the officer to be duly permitted or licensed, to produce his/her permit or license or identification badge. The Department shall enforce the provisions of this Article against any person found to be violating the same.

#### **Sec. 4-3266. Records of licenses and convictions.**

The Chief Police Officer or designee shall report to the City Clerk all ~~convictions for~~ violations of this Article. The City Clerk shall maintain a record of each permit and license issued and record the reports of violations therewith.

### **ARTICLE 84. USE OF SIDEWALK SALES FOR BUSINESS.**

#### **Sec. 4-784-400. Displays and sale of merchandise; restaurant service.**

(a) Any person who owns or operates a street-level retail business in the city shall be permitted to sell, attempt to sell or display for sale any goods, wares or merchandise ~~which is~~that are a regular part of the inventory of such retail business on the sidewalk directly in front

of such business, and any person who owns or operates a retail business selling food and beverages shall be permitted to provide restaurant seating and service on the sidewalk directly in front of such business, provided that:

(1) Such sidewalk display and sale of merchandise or restaurant seating and service does not block or impede pedestrian passage or ingress and egress to and from any building, and does not cause the area to become so congested as to create a safety hazard or impede or inconvenience the public.

(A) There shall be a presumption that pedestrian passage is being blocked or impeded if there is less than a five foot clearance for pedestrian passage on the sidewalk from the edge of the curb to the beginning of the sidewalk display ~~and sale of merchandise~~ or restaurant service area.

(B) The burden of showing that the sidewalk display or restaurant seating and sale of merchandise ~~service area~~ does not block or impede pedestrian passage or ingress and egress to and from any building and does not cause the area to become congested shall be on the person who owns or operates the ~~retail~~ business.

(2) The sidewalk display ~~and sale of merchandise~~ or restaurant service occurs at a time when the ~~retail~~ business is open for business.

(3) All fixtures used for sidewalk displays and ~~sales~~ restaurant seating of merchandise ~~service~~ are removable and no such fixtures remain on the sidewalk when the ~~retail~~ business is closed.

(b) All sidewalk displays and ~~sales of merchandise~~ restaurant seating and service shall be at the sole risk of the ~~retail~~ business, and the city shall not be responsible for any injuries to persons or damage to property ~~which~~ that result from such sidewalk displays ~~and sales of merchandise~~.

——— ~~(or service)~~.

(c) Any person who owns or operates a non-street-level retail business in the City, with the permission of the owner or operator of a street-level business that occupies the same building, shall be permitted to sell, attempt to sell or display for sale any goods, wares or merchandise that are a regular part of the inventory of the non-street-level retail business on the sidewalk directly in front of the street-level business. Any such sale or display shall be subject to paragraphs (a)(1)-(3) of this section.

(d) A violation of this section is a Class C offense.

#### **Sec. 4-794-401. Removal of merchandise or restaurant seating and service fixtures.**

(a) Any person who displays or sells merchandise or provides restaurant seating or service on the sidewalk in violation of this Article shall immediately desist from such display, ~~sale,~~ or ~~sales~~ service, and remove the merchandise and all fixtures ~~used for restaurant service or~~

the display, sale ~~or storage of such~~ merchandise from the sidewalk upon the direction of a police officer.

**Sec. ~~4-804-402~~. Permit required.**

(a) No person shall display or sell any merchandise or provide restaurant seating or service for the on the sidewalk without first having obtained a sidewalk sales permit from the city.

(b) Application for a sidewalk sales permit shall be made to the City Clerk on a form to be furnished by the Clerk.

(1) The sidewalk sales permit application shall ~~require the~~ require the applicant:

- (A) To certify that the applicant is the owner or operator of the retail business or restaurant for which the sidewalk sales permit is sought and that the business is validly licensed under all applicable city, county and state laws.
- (B) To specify the type of merchandise ~~which that~~ will be displayed and sold or the type of food and beverages that will be served or consumed on the sidewalk in front of the retail business and to certify that all merchandise which will be displayed and sold and all food and beverages that will be served or consumed on the sidewalk will be a regular part of the inventory of the retail business.
- (C) To indemnify and hold the city harmless for any personal injuries or property damage ~~which result from the sidewalk sale or display of merchandise~~ including costs and attorney fees, allegedly arising in whole or in part out of the use, occupation or disruption of sidewalks or sidewalk areas by the applicant or those acting on his/her behalf or with his/her approval or ratification, or allegedly arising in whole or in part out of the failure by the applicant to abide by the terms of this Article and the permit.
- (D) To certify that the applicant shall comply with all applicable city, county, state and federal laws and with any city rules and regulations which are adopted to carry out the provisions of this Article.

(2) The fee for a sidewalk sales permit shall be twenty-five dollars (\$25.), which shall be paid at the time an application for the permit is made.

(c) Sidewalk sales permits are nontransferable and shall be effective for one (1) year from the date of issuance.

(d) Sidewalk sales permits shall be displayed prominently, either on the sidewalk display of merchandise or restaurant seating area, or in the retail business.

(e) A violation of this section is a Class C offense.

**Sec. ~~4-814-403~~. Denial or revocation of permit.**

(a) A sidewalk sales permit may be denied or revoked for any of the following reasons:

(1) The applicant has failed to completely and accurately complete the sidewalk sales permit application.

(2) The applicant has failed to pay any personal property tax applicable to the retail business.

(3) The applicant has previously violated any provision of this Article or has failed to pay any assessed fine for a violation of the Takoma Park Code.

(4) The applicant has previously failed to comply with the direction of the police officer to desist from the sidewalk sale of merchandise or restaurant service or to remove any merchandise ~~and display~~ or fixtures from the sidewalk.

(5) The applicant has failed to maintain the merchandise or restaurant seating area in a reasonably clean condition during operation or has failed to clean the area completely after the business has ceased using the area for the day.

(b) Prior to the denial or revocation of a sidewalk sales permit, the City Clerk shall give written notice to the applicant, by regular first-class mail to the address set forth in the permit application or to the applicant's last known address, setting forth the basis of the permit denial or revocation.

(c) Any applicant whose sidewalk sales permit has been denied or revoked may appeal the denial or revocation to the City ~~Administrator, in writing, Manager~~ within ~~two (2) weeks~~ fourteen days after the date of the written notice of the permit denial or revocation. The appeal must be in writing.

(d) The City Manager will issue a decision on an appeal of a denial or revocation within fourteen days after receipt of the written appeal. The decision of the City Manager is final.

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~~§ 4-81. Denial or revocation of permit.~~

## **CHAPTER 4. BUSINESSES**

### **ARTICLE 1. BICYCLE SHOPS.**

#### **Sec. 4-1. Recording of certain information.**

~~———— The owner, proprietor or person in charge of any store or shop where bicycles, tricycles or similar vehicles are left for repair, shall keep a written record of the number and make of each vehicle so left, together with the name and address of the person leaving any vehicle at the store or shop. A violation of this section is a Class C offense.~~

### **ARTICLE 2. NEWSPAPERS.**

#### **DIVISION 1. BOXES AND POSTS.**

#### **Sec. 4-2. Boxes and posts for vending newspapers; permit; approval.**

~~———— Upon approval by the Mayor and Council, as to type, color and design of the boxes and posts referred to in this Division, and by the Chief Police Officer as to locations thereof, permits shall be issued by the Clerk, to any person engaged in the business of publishing and distributing a local daily newspaper. The posts shall be for the placing and maintaining on public space of boxes for vending the daily newspapers only; the newspaper vending boxes shall be attached to permanent posts or, upon approval by the Director of Public Works, to trash boxes.~~

#### **Sec. 4-3. Condition precedent for granting permit.**

~~———— It shall be a condition precedent to the issuance of any permit under this Article that the person applying for the permit shall agree to the conditions set forth in this Article.~~

#### **Sec. 4-4. Assumption of liability.**

~~———— A permittee shall assume all liability arising out of an injury to any person or damage to property occurring either directly or indirectly as a result of the occupation of public space by any boxes or posts erected under the permit.~~

#### **Sec. 4-5. Location for posts; vending box.**

~~———— (a) Only one (1) post shall be erected at or immediately contiguous to any one (1) of the street corners at street intersections.~~

~~———— (b) Where a permit is issued to one (1) person for the erection of a post at a designated street corner, the Mayor and Council may grant the person permission to place a news vending box at the same corner and permit it to be attached to the post.~~

#### **Sec. 4-6. Maintenance and marking; requirements.**

~~———— (a) All posts, boxes and other holders authorized by this Article shall be kept neatly painted and in good repair at all times. The lettering thereon shall be clear and distinct.~~



———— (b) No sign, advertisement or lettering of any character other than the name of the paper, its price and a brief direction for the depositing of coins shall be placed on any box or post authorized under this Article.

———— (c) A violation of this section is a Class C offense.

**Sec. 4-7. Discontinuance of use; requirements.**

———— In case of discontinuance of the use of any box, post or other holder, the permittee shall notify the Clerk of the fact of the discontinuance. This notice to the Clerk shall operate as a cancellation of the permit. The permittee shall thereupon remove the box, post or other holder and restore the public space to its former condition. A violation of this section is a Class C offense.

**Sec. 4-8. Permit revocation by non-use.**

———— Non-use for a period of one (1) week of any box, post or any other holder for which a permit has been issued, shall be cause for revocation of the permit.

**Sec. 4-9. Permit revocation by Mayor and Council; removal of posts and boxes.**

———— All permits shall be accepted with the understanding that they can be revoked at will by the Mayor and Council. Each permittee shall agree, upon the revocation of the permit, to remove any box, post or other holder within five (5) days after receipt of notice from the Mayor and Council of the revocation, and restore the public space to its former condition.

**DIVISION 2. PRESS AND FIRE PASSES.**

**Sec. 4-10. Passes; issuance; term; transferability.**

———— (a) The Chief Police Officer is authorized and directed to issue to bona fide representatives of the press and bona fide fire insurance adjusters or underwriters, and to other persons, in a number and form as may be approved by the Mayor and Council, a "press pass" or "fire pass," which shall be signed by the Chief Police Officer. In the case of fire insurance adjusters or fire underwriters, fire passes shall be issued only on the recommendation of the Fire Marshal of the Fire Department. Press passes shall be issued to these persons as recommended by the Chief Police Officer.

———— (b) Passes issued under the provisions of this Article shall be good only for six (6) months, to expire on June 30 and December 31 of each year, but may be renewed on condition that the pass issued for the preceding six (6) months is surrendered with the request for renewal.

———— (c) Passes issued to individuals shall not be transferable.

———— (d) The pass shall be plainly exposed to view whenever the person to whom it is issued avails himself of the privileges conferred by the pass.

**Sec. 4-11. Revocation of passes; signed agreement.**

———— (a) The Mayor and Council reserve the right to suspend for a period or indefinitely the privilege conferred by any passes or to revoke any pass upon evidence that it has been used by a person to whom issued for the purpose of imposing upon any public official or private individual or for any failure to observe the conditions upon which it is issued.

———— (b) Every person to whom a press or fire pass is issued shall agree in writing to:

———— (1) Assume all risks incident to the use of the privileges conferred by the pass.

———— (2) Promptly comply with any reasonable direction of any member of the Police Department.

~~————— (3) So conduct himself as not to interfere with, hinder or obstruct any authorized person engaged in preserving the peace, maintaining order and protecting life and property.~~

**Sec. 4-12. Violations:**

~~————— Any person holding a press or fire pass who violates any of the provisions of this Division, or who duplicates or counterfeits the passes or uses a duplicate or counterfeit pass for the purpose of obtaining or enabling others to obtain privileges granted to authorized holders of a pass, or who withholds delivery of the pass upon demand of the Chief Police Officer, shall be guilty of a Class A offense.~~

**~~ARTICLE 4. SALE OF FOOD AND DRINKS.~~**

**Sec. 4-33. Sale of spoiled food:**

~~————— No person shall knowingly sell or cause knowingly to be sold or knowingly offer for sale any impure, diseased, decayed or unwholesome article of food. A violation of this section is a Class C offense.~~

**Sec. 4-34. Cleanliness of facility used for sale of food:**

~~————— (a) Every person owning, renting, leasing or occupying any stall, room or stand where meats, fruits or vegetables are sold for food within the city shall keep the stall, room or stand in a clean condition.~~

~~————— (b) No person shall allow any meats, fruits or vegetables to become poisoned or infected or unfit for food by reason of unclean conditions of the stall, room or stand.~~

~~————— (c) A violation of this section is a Class C offense.~~

**Sec. 4-35. Open air sale of food location restrictions:**

~~————— (a) No person shall expose any fresh vegetables, meats, fruits or dairy products or other perishable foods for sale outside the confines of any building:~~

~~————— (1) Within eighteen (18) inches from the surface of the ground.~~

~~————— (2) Within twenty-four (24) inches of the sidewalk, or dedicated line of the street if there is no sidewalk.~~

~~————— (b) A violation of this section is a Class C offense.~~

**Sec. 4-36. Water supply; utensils:**

~~————— (a) No person shall use any premises or part thereof for the preparation, manufacture or storage or for sale or the offering for sale, exchange or delivery, of any food, drink, confectionery or condiment for humans unless:~~

~~————— (1) The premises is provided with running water or other proper water supply if running water is not available.~~

~~————— (2) All necessary facilities, apparatus, utensils and materials used in connection with the sale of the food and for the proper cleansing of the hands of all the persons employed therein is not available.~~

~~————— (b) A violation of this section is a Class C offense.~~

**Sec. 4-37. Protection of food from flies:**

~~————— (a) Every manager of a store, market, dairy, cafe, lunch room or other place in the city where food,~~

beverage, confectionery or any similar article is produced or offered for sale shall cause it to be screened effectually, or effectually protected by a power-driven fan or fans, or under adequate refrigeration:

—————(b) The above requirements are to prevent flies and other insects from obtaining access to the food, beverage, confectionery or other article, and to keep them free from flies and other insects at all times.

—————(c) A violation of this section is a Class C offense.

**Sec. 4-38. Certificate of sanitation required for eating establishments.**

—————No restaurant, oyster house, cook shop, ice cream parlor, dairy lunch or eating house, by whatever name designated, where prepared food, meals or other refreshments are served to transient customers, shall be established, maintained or continued without a certificate that the premises are in a proper sanitary condition to conduct this business. The certificate shall be obtained from the health officer having jurisdiction over that location. A violation of this section is a Class C offense.

**Sec. 4-39. Meat staples:**

—————No person shall tag or mark meat intended for sale by metal staples or other similar devices, inserted therein less than two (2) inches in length or breadth. A violation of this section is a Class C offense.

**~~ARTICLE 5. TAXICABS AND OTHER VEHICLES FOR HIRE.~~**

**Sec. 4-40. Definitions:**

—————(a) As used in this Article, unless the context clearly indicates otherwise:

—————(1) *Automobile for hire, taxicab and taxi* shall severally embrace any motor vehicle for hire, designated to carry seven (7) persons or less, including the driver, operated on demand or call, accepting or soliciting passengers indiscriminately for transportation in the city, or between points within the city and nearby points, not operating on a fixed schedule or between fixed termini. The fact that a hiring car is operated from a stand on a public street shall be prima facie evidence that the service rendered is taxicab service.

—————(2) *Company* includes every corporation, association, partnership, group of individuals owning, controlling, operating or managing one (1) or more taxicabs operating in the city.

—————(3) *Licensee* means the individual, partnership, company or corporation to whom a permit has been issued as herein provided; and shall include all agents and employees of such licensee.

—————(4) *Operator* means the person engaged in driving a taxicab, for which a permit had been issued to operate in the City.

—————(5) *Owner and Lessee* means the individual, partnership, company or corporation who has the actual and lawful right to the possession and control of the motor vehicle or taxicab.

—————(6) *Passenger* shall include occupants of any taxicab, except the operator.

—————(7) *Permit* means a permit issued under the Article by the Clerk.

—————(8) *Person* includes every person, partnership, company, association, corporation, group of individuals or individual owning, controlling, operating or managing one (1) or more taxicabs in the City.

**Sec. 4-41. Permit required:**

—————(a) No person shall operate a taxicab, taxi, or automobile for hire or carry on the business of soliciting passengers for hire or carrying or transporting passengers for hire, or shall so solicit passengers for hire, or so carry

or transport passengers for hire, in any automobile or other vehicle, unless, and until such person shall have been granted a permit to do so by the Clerk upon a written application:

~~\_\_\_\_\_ (b) No person shall carry on such business or solicit or carry passengers for hire in the City, except as authorized by a permit, and in strict compliance with the terms of this permit and with the provisions of this Article.~~

**Sec. 4-42. Investigation; fee:**

~~\_\_\_\_\_ Every person who desires to own or operate a taxicab shall pay an investigation fee of Three Dollars (\$3.00) to the Clerk-Treasurer. The Police Department shall make the necessary investigation or inspection of each application of the operators and owners.~~

**Sec. 4-43. Permit application requirements:**

~~\_\_\_\_\_ (a) No permit shall be granted to operators or owners of taxicabs except upon written application furnished the applicant by the Chief Police Officer showing the following:~~

- ~~\_\_\_\_\_ (1) The applicant's full name;~~
- ~~\_\_\_\_\_ (2) Address;~~
- ~~\_\_\_\_\_ (3) By whom employed;~~
- ~~\_\_\_\_\_ (4) Length of residence in the City;~~
- ~~\_\_\_\_\_ (5) Residence for the past five (5) years;~~
- ~~\_\_\_\_\_ (6) Record of arrests and convictions, if any, including motor vehicle laws or ordinances;~~
- ~~\_\_\_\_\_ (7) Current Maryland chauffeur's license number;~~
- ~~\_\_\_\_\_ (8) Date of expiration thereof;~~
- ~~\_\_\_\_\_ (9) Age;~~
- ~~\_\_\_\_\_ (10) Race;~~
- ~~\_\_\_\_\_ (11) Sex;~~
- ~~\_\_\_\_\_ (12) Height;~~
- ~~\_\_\_\_\_ (13) Weight;~~
- ~~\_\_\_\_\_ (14) Color of eyes;~~
- ~~\_\_\_\_\_ (15) Color of hair;~~
- ~~\_\_\_\_\_ (16) Married or single.~~

~~\_\_\_\_\_ (b) The applicant shall furnish to the Chief Police Officer a copy of his fingerprints, which shall be taken at the Police Station without charge to the applicant.~~

~~\_\_\_\_\_ (c) The applicant for a permit as operator must also furnish to the Chief Police Officer three (3) photographs of himself, of a size and character to be prescribed by the Chief Police Officer.~~

~~\_\_\_\_\_ (d) Owners of cars who rent or lease the cars for taxicabs must furnish the City with:~~

- ~~\_\_\_\_\_ (1) Their names and addresses;~~
- ~~\_\_\_\_\_ (2) A description of each vehicle to be used as a taxicab;~~
- ~~\_\_\_\_\_ (3) Its tag number;~~
- ~~\_\_\_\_\_ (4) Its title number;~~
- ~~\_\_\_\_\_ (5) Sufficient proof that the vehicle is owned or leased by such owner;~~
- ~~\_\_\_\_\_ (6) Evidence showing the responsibility of the owner to properly serve and protect the public;~~
- ~~\_\_\_\_\_ (c) The application shall state:~~
  - ~~\_\_\_\_\_ (1) That the applicant has read the provisions of this Article, and that he agrees to comply with its requirements;~~
  - ~~\_\_\_\_\_ (2) If the owner is a corporation, the name and address of the president and secretary shall be given, as well as the full corporate name;~~
  - ~~\_\_\_\_\_ (3) If the owner is a partnership, its application shall give the names, addresses and age of each partner and the extent of the interest that each has in the taxicab business.~~

**~~Sec. 4-44. Permit; grant, fee, term; transferability.~~**

- ~~\_\_\_\_\_ (a) The Clerk shall grant a permit to any person, to carry on the business of soliciting and carrying of passengers for hire in a taxicab, or automobile for hire, upon:~~
  - ~~\_\_\_\_\_ (1) An application properly filled out and executed;~~
  - ~~\_\_\_\_\_ (2) The payment by the applicant to the City of an annual license fee of Twenty-Five Dollars (\$25.00) for each vehicle so licensed; and,~~
  - ~~\_\_\_\_\_ (3) Full compliance with the provisions of this Article.~~
- ~~\_\_\_\_\_ (b) The annual license year is to be considered from January 1, to December 31, of each year.~~
- ~~\_\_\_\_\_ (c) The permit shall be non-transferable, and shall be valid only for the licensee named, or his agent or employee.~~

**~~Sec. 4-45. Permit revocation; Termination of privilege.~~**

- ~~\_\_\_\_\_ (a) The Mayor and Council have the full right, at their discretion, to revoke any permit, after due notice to the licensee, and after a hearing accorded to him, if so requested by the licensee within five (5) days from mailing to him of the notice.~~
- ~~\_\_\_\_\_ (b) Upon revocation all rights and privileges granted under the permit shall cease and be null and void. The license fee paid shall become forfeited to the City. Upon revocation no licensee, or any employee or agent of the licensee, shall carry on the business of soliciting or carrying of passengers for hire in the City, including any public taxicab stand, any taxicab, or automobile for hire.~~

**~~Sec. 4-46. Permit renewal; exception to revocation regulations.~~**

- ~~\_\_\_\_\_ (a) Any permit issued pursuant to this Article may be renewed by the Clerk until December 31 after the expiration of the permit, but only upon:~~
  - ~~\_\_\_\_\_ (1) The payment by the licensee to the City of the sum of Twenty-Five Dollars (\$25.00) as a yearly~~

license fee;

\_\_\_\_\_ (2) A written renewal thereof by the Clerk; and,

\_\_\_\_\_ (3) Other terms and conditions as may be prescribed by the Mayor and Council.

\_\_\_\_\_ (b) If a permit should be revoked for any reason, it will not be renewed, nor a new permit issued in its stead, during a period of six (6) months from the date of revocation, unless, due to exceptional circumstances, the Mayor and Council should modify such requirement.

**Sec. 4-47. License number, permit card and taxi sign.**

\_\_\_\_\_ (a) Every person, operating one (1) or more taxicabs, or automobiles for hire, to whom a permit has been issued, shall be assigned a license number for each vehicle, and furnished with a "Permit Card" for each vehicle, on a form as may from time to time be prescribed by the Mayor and Council. The "Permit Card" shall contain the license number, and the name and address of the licensee. The "Permit Card" shall be displayed publicly at all times in a conspicuous place in the taxicab for which issued, and shall be subject to inspection at any time by any police officer.

\_\_\_\_\_ (b) Every licensee shall have "Takoma Park Taxi," together with the license number, permanently painted on one door on each side of each taxicab in letters at least two and one-half (2 ½) inches high.

**Sec. 4-48. Badge or shield; fee; surrender.**

\_\_\_\_\_ (a) The operator of any taxicab or automobile for hire shall carry at all times, in a conspicuous position upon his breast, while operating the taxicab or automobile for hire, a badge or shield to be furnished by the City. Upon a deposit by the licensee with the City of a sum of Two Dollars and Seventy-five Cents (\$2.75) the licensee shall receive the shield or badge, registration certificate and copy of the ordinances covering the regulation of taxicabs in the City.

\_\_\_\_\_ (b) The sum of Two Dollars (\$2.00) will be returned by the City to the licensee upon surrender of the badge or shield. When a licensee ceases to operate a taxicab in the City he shall, within twenty-four (24) hours, turn in all cards and badge or shield issued to him, to the Clerk.

**Sec. 4-49. Permit-identification card and badge or shield regulations.**

\_\_\_\_\_ An operator shall at all times have affixed to the interior of the vehicle operated by him, in a place readily to be seen by passengers, a permit identification card, displayed in full view, bearing the operator's photograph and his name in letters of sufficient size to be easily read by passengers. No person shall operate any taxicab or automobile for hire in the City without his permit-identification card, badge or shield, and any other information prescribed in this Article.

**Sec. 4-50. Agents and employees; permits; liability of principal-owner-licensee.**

\_\_\_\_\_ (a) No taxicab or automobile for hire, operating under the provisions of this Article, shall be operated in the City except by the owner of such taxicab or automobile for hire, or by a duly approved agent or employee of such owner. Every owner of one (1) or more taxicabs or automobiles for hire shall apply for separate permits to operate each vehicle.

\_\_\_\_\_ (b) Whenever any taxicab or automobile for hire, duly licensed, shall be operated by an agent or employee of the licensee, the agent or employee shall be first approved by the Chief Police Officer as to his fitness, qualifications and responsibility, as prescribed in the case of an applicant for a permit. Every agent or employee, before operating any taxicab or automobile for hire, shall secure a badge or shield and a permit-identification card.

\_\_\_\_\_ (c) Every licensee shall be responsible for the acts of his agents and employees, while operating a taxicab or automobile for hire, equally as though the licensee were himself operating the vehicle. His permit may be revoked for the violation of or failure to comply with these regulations on the part of every agent or employee.

~~———— (d) The Mayor and Council may revoke the badge or identification card of any agent or employee in which case the right of the agent or employee to operate any taxicab shall cease:~~

**Sec. 4-51. Driver requirements:**

~~———— (a) No taxicab or automobile for hire shall be driven by a person who is:-~~

~~———— (1) Addicted to the use of narcotics or intoxicating liquor;~~

~~———— (2) Not of good moral character;~~

~~———— (3) Mentally deficient to such an extent as to impair his ability to properly and efficiently operate the vehicle;~~

~~———— (4) Not experienced in operating motor vehicles and fully competent to conduct taxicab service carefully and courteously; or,~~

~~———— (5) Is not licensed as a chauffeur under the laws of the State.~~

**Sec. 4-52. Taxicab stand designation:**

~~———— The Mayor and Council may from time to time, establish, set aside, and designate taxicab stand or stands within the City, reserved exclusively for taxicabs lawfully operating in compliance with this Article. The stand or stands shall be marked, delineated or indicated by appropriate signs to be erected by the City:~~

**Sec. 4-53. Taxicab stand regulations:**

~~———— No person, other than the lawful licensee or operator of a taxicab, taxi or automobile for hire, duly licensed, shall park or permit to stand any automobile or other vehicle, in any public automobile or other vehicle, in any public automobile or taxicab stand created, established, set aside and designated under Section 4-52:~~

**Sec. 4-54. Driver in attendance at taxicab stand:**

~~———— When any taxicab is in a taxi stand or other space designated by the Mayor and Council, the operator shall be at all times within twenty (20) feet of his taxicab:~~

**Sec. 4-55. Loitering in taxi or near taxi stand:**

~~———— No licensee, or his agents and employees shall congregate or loiter upon any sidewalk or public place while parked within any public taxicab stand. No licensee, or his agents and employees, shall permit any vehicle to be used as a loitering place or for the congregation of any persons in a vehicle, except bona fide passengers for hire. Any use of a vehicle as a loitering place, or for any other purpose than that of a taxicab or automobile for hire, will be deemed, ipso facto, to be cause for revocation of the licensee's permit.~~

**Sec. 4-56. Display of "off duty" sign:**

~~———— Taxicabs not using designated stands as prescribed in this Article except when lawfully discharging, carrying, or receiving bona fide passengers shall prominently display on the taxi a sign marked "off duty."~~

**Sec. 4-57. Littering by licensee; stands:**

~~———— (a) No person operating a taxicab or automobile for hire, shall deposit, cast or throw any paper, cards, pamphlets, refuse matter, or waste matter in or upon any public street, sidewalk, or public space or upon any premises adjacent thereto, or in or upon any private premises:~~

~~———— (b) It shall be the duty of every licensee and his agents and employees to see to it that the public taxi stands~~

are at all times kept clean and free from debris or other foreign matter.

**Sec. 4-58. Lost property procedure.**

\_\_\_\_ Every operator of a taxicab or automobile for hire shall, at all times, promptly report and deliver to the Police Department all property of value left in his vehicle by any passenger.

**Sec. 4-59. Vehicle to be in safe, sanitary and proper repair; condemnation by Chief Police Officer.**

\_\_\_\_ Any taxicab or automobile for hire, which is in an unsafe, unsanitary, or unsightly condition, in the opinion of the Chief Police Officer, may be condemned by him. If the owner or his agents or employees shall thereafter continue to use the vehicle, without having made the vehicle safe, sanitary and wholesome to the satisfaction of the Chief Police Officer, the permit issued for the taxicab or automobile for hire may be revoked.

**Sec. 4-60. Notice of accident.**

\_\_\_\_ (a) Immediate notice in writing of each accident involving a taxicab or automobile for hire shall be given by its licensee or operator to the Chief Police Officer where the accident:

- \_\_\_\_ (1) Occurs while the cab or vehicle is occupied by a passenger;
- \_\_\_\_ (2) Results in loss of life or serious injury to persons or substantial damage to property; or,
- \_\_\_\_ (3) Results in the removal of the vehicle from service for more than twenty-four (24) hours.

\_\_\_\_ (b) This report to the Chief Police Officer shall be in addition to the report required by the Commissioner of Motor Vehicles.

**Sec. 4-61. Seating regulations.**

\_\_\_\_ Passengers are not permitted to ride on the front seats of taxicabs until the rear seat thereof is fully occupied.

**Sec. 4-62. Police inspection and traffic direction.**

\_\_\_\_ (a) Every licensee and operator shall, at any time, permit a police officer to inspect

- \_\_\_\_ (1) Any licensed vehicle;
- \_\_\_\_ (2) The license to operate the vehicle; and
- \_\_\_\_ (3) The permit to use the vehicle as a taxicab or automobile for hire.

\_\_\_\_ (b) The licensee or operator shall, at all times, obey the directions of any police officer as to traffic regulations and traffic control.

**Sec. 4-63. Liability of owner or lessee.**

\_\_\_\_ The owner or lessee of any taxicab or automobile for hire who causes or permits or suffers to be caused or permitted, by himself or by his agent or employee or by any other person, any violation of these regulations or the operation of any vehicle contrary to the requirements of this Article shall himself be deemed guilty of a Class C offense as fully as though he were himself operating the vehicle personally at the time. In the case of a corporation, any officer, agent or employee, who violates, procures, aids or abets any violation of this Article or permits or suffers the operation of any vehicle contrary to this Article shall be deemed personally guilty of a Class C offense of these regulations.

**Sec. 4-64. Failure to transport passenger at a fixed time.**



~~Every driver, proprietor or lessee of any taxicab, taxi or automobile for hire who engages to transport any passenger or passengers to any train or place at a fixed time and who willfully fails or neglects to do so without giving notice in ample time to enable the passenger to procure other efficient service of like kind shall, upon conviction, be liable to the penalty provided in this Code.~~

#### **ARTICLE 6. TRAILER CAMPS**

##### **Sec. 4-65. Permit required; duration; fee; nonrenewable:**

~~(a) No person shall set up, maintain or establish within the city any camp or temporary or permanent place of abode in trailers, tents, wagons, vans, automobiles or trucks without first having obtained a permit from the Clerk.~~

~~(b) This permit shall be valid for a period of not more than three (3) days, and then only for use upon private property.~~

~~(c) Before issuing any permit the Clerk shall receive from the applicant a fee of three dollars (\$3.).~~

~~(d) Any permits issued pursuant to the terms of this section shall not be renewed.~~

~~(e) A violation of this section is a Class C offense.~~

#### **ARTICLE 7. FORTUNE-TELLING, PALMISTRY, CLAIRVOYANCE AND OTHER SIMILAR BUSINESSES.**

##### **Sec. 4-66. Permit required:**

~~No person shall engage in the business or performance of fortune-telling, palmistry, clairvoyance, sooth-saying, spiritualism, numerology, astrology or purport to fore-tell the future by cards or whatsoever terminology and to accept any money, remuneration or gratuity therefor within the city, without first obtaining a permit therefor in compliance with the provisions of this Article.~~

##### **Sec. 4-67. Permit fee:**

~~Any person issued a permit pursuant to this Article shall pay an annual fee of Two Hundred Fifty Dollars (\$250.00) to the City Treasurer for such privilege upon approval of an application by the Chief Police Officer. The annual fee shall be assessed on a calendar year basis, January 1st to December 31st each year and shall not be pro-ratable nor transferrable. An application for renewal shall be filed annually prior to December 1st for the ensuing year.~~

##### **Sec. 4-68. Permit application:**

~~(a) Every applicant for a permit pursuant to this Article shall pay a Filing and investigation fee of Twenty-five Dollars (\$25.00) to the City Treasurer such fee being non-refundable.~~

~~(b) The applicant shall provide on a form to be furnished by the City the following information:~~

~~(1) Name, date and place of birth and physical description of applicant.~~

~~(2) Local address of applicant and length of residence.~~

~~(3) Address of residence for prior twenty (20) years.~~

~~(4) Description of nature of business to be conducted.~~

\_\_\_\_\_ (5) Address of such business activity.

\_\_\_\_\_ (6) Two recent photographs (2" x 2") of applicant showing (1) head and shoulders only and (2) side view.

\_\_\_\_\_ (7) A complete set of Fingerprints to be printed in the presence of a City Police Officer.

\_\_\_\_\_ (8) The names and addresses of at least two (2) property owners of Montgomery and/or Prince George's County, who will certify as to the applicant's good character and business responsibility, or in lieu thereof such other available information as will enable an investigator to properly evaluate such character and responsibility.

\_\_\_\_\_ (9) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, violation of law or Ordinance other than traffic violations, the nature of the offense, the date and place, penalty or punishment imposed therefor.

\_\_\_\_\_ (10) Such application shall be signed by the applicant and duly sworn before a Notary or other appropriate Officer.

#### **Sec. 4-69. Investigation and issuance of permits.**

\_\_\_\_\_ (a) The procedure for the investigation and issuance of a permit, under this Article, shall be governed as follows:

\_\_\_\_\_ (1) Upon receipt of each application for a permit, it shall be referred to the Chief Police Officer, who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good, and shall endorse the application in the manner prescribed in this Section, within a reasonable period of time after it has been Filed by the applicant with the City Treasurer.

\_\_\_\_\_ (2) If as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief Police Officer shall endorse on the application his disapproval and the reasons therefor, and return the application to the City Administrator.

\_\_\_\_\_ (3) If as a result of such investigation, the applicant's character and business responsibility are found to be satisfactory, the Chief Police Officer shall endorse on the application his approval, and return the application to the City Administrator.

\_\_\_\_\_ (4) The City Administrator shall determine, subject to review by the City Council as provided in Section 4-70, whether the application shall be approved. The City Administrator shall determine that the proposed business location conforms to the Zoning Code of the County in which it is to be established. The City Administrator, in consultation with the Fire Chief shall also determine that the proposed business fixtures and accessories shall not constitute a fire hazard.

\_\_\_\_\_ (5) If the application is approved by the City Administrator, a permit shall be issued by the City Treasurer upon payment of the fee as designated in Section 4-67 of this Article.

\_\_\_\_\_ (6) If an application is disapproved under this Section the applicant shall be notified in writing by the City Administrator.

#### **Sec. 4-70. Appeal procedure.**

\_\_\_\_\_ (a) The procedure for the handling of appeals, under this, Article, shall be governed as follows:

\_\_\_\_\_ (1) Any person aggrieved by the action of the City Administrator in the denial of a permit as provided in Section 4-69 of this Article shall have the right to appeal to the City Council. Such appeal shall be taken by filing with the City Clerk, within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The Mayor shall set a time and a place for a hearing on such appeal and

~~notice of such hearing shall be given to the applicant in writing by the City Clerk.~~

~~\_\_\_\_\_ (2) The Mayor or any Councilman who is of the opinion that a perm has been improperly issued may within ten (10) days after its issuance : notify the City Clerk. In such case the Mayor shall set a time and place for hearing, and the City Clerk shall in writing notify the permittee of such tin and place.~~

~~\_\_\_\_\_ (3) After the hearing the City Council shall determine whether the permit shall be issued, refused, ratified, or revoked.~~

**~~Sec. 4-71. Zoning requirement.~~**

~~\_\_\_\_\_ No permit shall be issued by the City Treasurer under this Article until h shall have received satisfactory evidence in writing that a "Use an Occupancy Permit" and/or a "Traders License" has been issued by th County Official authorized to issue such Permit and/or License for th specific location as shown on the application.~~

**~~Sec. 4-72. Fire prevention inspections.~~**

~~\_\_\_\_\_ The Fire Chief or his duly authorized representative is authorized t conduct periodic inspections of premises as designated in the Permit issue under this Article to determine that there are no existing fire hazards.~~

**~~Sec. 4-73. Duty of police to enforce Article.~~**

~~\_\_\_\_\_ It shall be the duty of the Police of the City to determine that any person or persons conducting a business as designated in Section 4-66 of this Article have applied for and been issued a permit for the current year.~~

**~~Sec. 4-74. Revocation of permit; causes.~~**

~~\_\_\_\_\_ (a) Permits issued under the provisions of this Article may be revoked by the City Council for any of the following causes:~~

~~\_\_\_\_\_ (1) Fraud, misrepresentation, or incorrect statement contained in the application for permit;~~

~~\_\_\_\_\_ (2) Fraud, misrepresentation, or incorrect statement made in the course of carrying on the business as stated in Section I of this Article;~~

~~\_\_\_\_\_ (3) Any violation of this Article;~~

~~\_\_\_\_\_ (4) Conviction of any crime or misdemeanor.~~

**~~Sec. 4-75. Revocation of permit; notice; hearing.~~**

~~\_\_\_\_\_ Whenever the City Administrator has reason to believe that any permit should be revoked, he may, with the approval of the Mayor, so notify the permittee by registered letter addressed to his last-known address. Either the Mayor or City Council may direct the City Clerk to take such action. If within ten (10) days the City Clerk does not receive from the permittee a written request for a hearing as to the revocation of his permit, he shall declare the permit revoked. If a hearing is requested, the Mayor shall set the date for the hearing, and the City Clerk shall notify the permittee in writing. After the hearing the City Council shall determine whether the permit shall be revoked or continued in force.~~

**~~Sec. 4-76. Applications to be rejected.~~**

~~\_\_\_\_\_ The City Treasurer shall accept no application for a permit from a permittee whose permit has been revoked under the provisions of Sections 4-74 and 4-75 within six (6) months thereafter.~~

**~~Sec. 4-77. Penalty.~~**

~~\_\_\_\_\_ Any person who shall violate any provision of this Article shall be guilty of a Class C violation.~~

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